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WILKINSON, BARKER, KNAUER & QUINN, LLP

Washington, DC
Frankfurt, Germany

2300 N Street, NW
Washington, DC 20037-1128

telephone: 202.783.4141
facsimile: 202.783.5851

August 26, 1998

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Information Technology Industry Council
GEN Docket No. 98-68

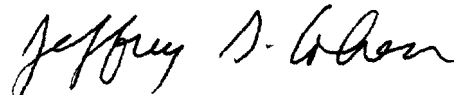
Dear Ms. Salas:

Please find enclosed, on behalf of the Information Technology Industry Council, an original and five copies of its Reply Comments in the above-referenced proceeding.

Should you have any questions regarding this submission, please contact the undersigned.

Sincerely,

WILKINSON, BARKER, KNAUER & QUINN, LLP



By: Lawrence J. Movshin
Jeffrey S. Cohen

Enclosures

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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

In the Matter of)

)
1998 Biennial Regulatory Review — Amendment)
of Parts 2, 25 and 68 of the Commission's Rules)
to Further Streamline the Equipment)
Authorization Process for Radiofrequency)
Equipment, Modify the Equipment Authorization)
Process for Telephone Terminal Equipment,)
Implement Mutual Recognition Agreements and)
Begin Implementation of the Global Mobile)
Personal Communications by Satellite (GMPCS))
Arrangements)

GEN Docket No. 98-68

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AUG 26 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

To: The Commission

**REPLY COMMENTS OF THE
INFORMATION TECHNOLOGY INDUSTRY COUNCIL**

The Information Technology Industry Council ("ITI"), by its attorneys and pursuant to section 1.415 of the Commission's rules, hereby submits its Reply to certain comments filed in the above-referenced docket.¹ As expressed by ITI in its initial Comments, and as others have similarly suggested, ITI strongly advocates expansion of

¹ ITI represents the leading U.S. providers of information technology products and services. Its members had worldwide revenue of \$420 billion in 1997 and employed more than 1.2 million people in the U.S. ITI and its predecessor, the Computer and Business Equipment Manufacturers Association, for more than two decades have played a leading role in the development of rules governing the design and marketing of information technology equipment, including equipment authorization programs, test procedures, and importation rules. As with most industry organizations, the positions expressed herein represent a consensus of ITI's members' views, and individual member companies may file comments and reply comments in this proceeding expressing independent views on particular subject matters.

manufacturer self-approval programs in lieu of the creation of Telecommunication Certification Bodies (“TCBs”). Should TCBs nevertheless be authorized to conduct the equipment approval functions now carried out by the FCC, then ITI has strongly urged, with the support of the substantial majority of those commenting on the issue, that the Commission must remain as an available option for obtaining equipment approval for devices that cannot be self-approved, at least until the private sector approval industry becomes fully competitive. Furthermore, any auditing responsibilities should remain solely within the province of the FCC, and not with TCBs due to the potential for abuse.

I. The Commission Should Expand Self-Approval Rather than Create TCBs

All of the reasons set forth by the Commission in support of the creation of TCBs apply even more strongly to expanding the scope of those products that may instead be self-approved by manufacturers. Manufacturer self-approval will certainly improve the speed by which new products can enter the marketplace, since no outside approval process, not even a potentially efficient TCB process, would be required. While TCBs can offer more geographically convenient locations than the FCC’s equipment lab, many manufacturers can perform self-approvals right at their own locations. Further, the FCC would be enabled to redirect even more resources to enforcement functions, since there would be less need for the FCC to maintain oversight of TCBs.

Additional benefits of expanding the self-approval process derive from the protection of manufacturers and importers from the premature disclosure of new products that often occurs in the filing of applications for approval, whether with the FCC or a

TCB, as the Commission noted when it adopted the DoC process.² The Commission also noted at that time that the DoC plan may advance the acceptance of U.S. product approvals for personal computers and their associated peripherals in other countries.³ This is an important consideration in this docket in light of the concerns expressed by commenters about the official quality and international acceptability of TCB grants (*see discussion infra*).

ITI notes that certain commenters in the test laboratory industry have pointed to apparent problems with the Declaration of Conformity (“DoC”) process, in suggesting that the TCB approach is better than an expansion of the DoC program.⁴ ITI clearly disagrees. Significantly, none of those commenters suggests that any computing devices are being marketed that do not comply with the FCC’s limits on RF levels. The concerns they raise are limited to documentation requirements. And indeed, the industry’s record of compliance with the Commission’s limits on RF emanations remains exceptional under the DoC program.

ITI notes that the DoC process is relatively new and necessarily involves a learning period. To the extent that there are administrative, documentation, and labeling problems, ITI is working to educate the industry on the DoC program, and is even developing standard templates for the Declaration of Conformity, in order to standardize

² *Amendment of Parts 2 and 15 of the Commission's Rules to Deregulate the Equipment Authorization Requirements for Digital Devices*, ET Docket No. 95-19, *Report and Order*, 11 FCC Rcd 17915, 17923 (1996).

³ *Id.* at 17924.

⁴ *See, e.g.*, Comments of Communications Certification Laboratory at 6-7.

and minimize the administrative burden otherwise being encountered by new and smaller industry members.⁵ Accordingly, any such deficiencies should be viewed as a short-term lack of education on the new process.

Moreover, to the extent that a manufacturer or retail system integrator is abusing the DoC rules, the Commission continues to have substantial enforcement power (and hopefully additional resources created by the reduction in the prior approval equipment authorization programs). ITI believes that it is the FCC, not TCBs or other parties, who has the impartiality, competence, and responsibility to monitor the marketplace for compliance.

II. If TCBs Are Authorized, Steps Should Be Taken to Ensure That TCB Grants Are as Official as FCC Grants.

As mentioned above, ITI believes that the best course of action is to expand the range of products that may be self-approved, rather than creating TCBs to approve such devices. However, to the extent that the TCB program is instituted, ITI agrees with those commenters that proposed measures to ensure that TCB grants are officially recognized on as wide a scale as possible, particularly in the international arena. As the Telecommunications Industry Association ("TIA") has appropriately noted, some manufacturers have come to rely on FCC grants to facilitate export, and some foreign

⁵ ITI intends to make this template widely and freely available to help manufacturers and system integrators comply with the administrative steps of the DoC process, as well as international guidelines for supplier's declarations.

customs officials have come to recognize and accept the form of the FCC grants as a matter of course.⁶

On the other hand, ITI emphasizes, as others have similarly suggested,⁷ that the official responsibilities of the TCBs should not be expanded to permit TCBs to conduct post-grant audits; only the FCC should have such authority in order to ensure that there is no possibility of unfairness entering the private sector approval process. Many commenters opposed any delegation of audit authority to TCBs, out of fears that abuses will necessarily follow. As echoed in these comments, ITI is concerned that there would be a strong incentive for TCBs to conduct audits in a partial manner to protect their business relationships with customers, and to shield any errors that may have been made during the TCB's approval process.⁸

III. The Commission Should Continue its Equipment Approval Functions.

ITI supports the retention of the FCC equipment approval process at least until the TCB industry becomes competitive. In this way, TCBs will have the opportunity to gain experience with the approval process, and the marketplace will ensure that fees charged by TCBs reflect true market demand and value. Further, ITI agrees with Cisco Systems that retaining the FCC's authorization responsibilities will create a competitive

⁶ Comments of TIA at 5.

⁷ See Comments of Itron, Inc. at 2-3, Comments of Cisco Systems, Inc. at 9-10, Comments of SEA, Inc. at 8-9.

⁸ If the FCC nevertheless chooses to provide any audit authority to TCBs, ITI believes that at a minimum the FCC should select the products to be tested to avoid conflicts between the TCB and its customers (*see, e.g.*, Comments of Motorola, Inc. at 9-10), and should adopt mandatory guidelines by which such audits are conducted (*see, e.g.*, Comments of SEA, Inc. at 9).

standard or benchmark for TCBs, and thus TCBs will be less inclined to charge exorbitant fees if manufacturers have the option of using the FCC's procedures.⁹

For the foregoing reasons, ITI urges the Commission to adopt rules consistent with its views expressed in these Reply Comments.

Respectfully submitted,

INFORMATION TECHNOLOGY INDUSTRY COUNCIL



By: Lawrence J. Movshin
Jeffrey S. Cohen
WILKINSON, BARKER, KNAUER & QUINN, LLP
2300 N Street, N.W., Suite 700
Washington, D.C. 20037-1128
(202) 783-4141
Its Attorneys

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⁹ Comments of Cisco Systems, Inc. at 11. In the same vein, and in order to ensure that TCBs (and the FCC) are being efficient in their performance, ITI also supports Motorola's position (at page 4 of its Comments) that the FCC should regularly collect and publish speed of service figures for its authorized TCBs. This will allow members of the public who are not well-positioned to determine such information generally, to have an impartial source from which they can determine, at a minimum, how fast particular TCBs are performing their services. It will also provide a benchmark in determining the comparative speed of service available from the FCC, by comparison to the private sector TCBs around the country, in allowing for an even more competitive TCB marketplace.